

TITLE 8. PUBLIC EMPLOYMENT RELATIONS BOARD

TEXT OF PROPOSED REGULATIONS

[Proposed new language is shown in bold (**bold**); text to be deleted is shown in ~~strikeout~~ (~~strikeout~~).]

32135. Filing.

- (a) All documents shall be considered "filed" when the originals, and the required number of copies, if any, are actually received by the appropriate PERB office during a regular PERB business day.
- (b) All documents, except proof of support as described in sections 32700, 61020, 81020 and 91020, shall also be considered "filed" when received during a regular PERB business day by facsimile transmission at the appropriate PERB office together with a Facsimile Transmission Cover Sheet, or when received by on-line filing as defined in Section 32613.
- (c) A party filing documents by facsimile transmission or by on-line filing must also ~~place~~ **deposit** the original, together with the required proof of service and the required number of copies, in the U.S. mail **or with a delivery service** for delivery to the appropriate PERB office.
- (d) A facsimile filing shall be accompanied by a Facsimile Transmission Cover Sheet which includes the following:
 - (1) The name of the party serving or filing papers by fax and the name and telephone number of the agent transmitting the document by facsimile transmission;
 - (2) The name or title of the document being transmitted and the number of pages;
 - (3) The date and time of the transmission;
 - (4) The PERB case number, if any.

Authority cited: Sections 3509(a), 3513(h), 3541.3(g), 3563(f), 71639.1(b) and 71825(b), Government Code, and Section 99561(f), Public Utilities Code. Reference: Sections 3509, 3513(h), 3541.3(n), 3563(m), 71639.1 and 71825, Government Code, and Section 99561(m), Public Utilities Code.

32166. Application to Join a Representation Hearing As a Full Party.

(a) An employee organization shall be allowed to participate fully in a representation hearing provided it has filed a written application with the regional office not less than 10 days prior to the commencement of the hearing, accompanied by either 10 percent support of any unit in dispute at the hearing, or 10 percent support of a proposed unit which overlaps another unit in dispute at the hearing. Proof of support is defined in Chapter 1, Section 32700, ~~and~~ Chapter 5, Section 61020, **Chapter 7, Section 81020, and Chapter 8, Section 91020**. A copy of the written application, excluding the proof of support, shall be served on the parties. Proof of service pursuant to Section 32140 is required.

(b) The Board agent may waive the deadline for filing an application pursuant to this Section for good cause.

Authority cited: Sections 3509(a), 3513(h), 3541.3(g), 3563(f), 71639.1(b) and 71825(b), Government Code, and Section 99561(f), Public Utilities Code. Reference: Sections 3509, 3513(h), 3541.3(a), (b), (h), (l), (m), (n), 3563(a), (c), (g), (k), (l), 71639.1 and 71825, Government Code, and Section 99561(a), (c), (g), (k), (l), Public Utilities Code.

32500. Review of Representation Case.

(a) Any party to a decision in a representation case by the Board itself, except for decisions rendered pursuant to Chapter 5, Chapter 7 or Chapter 8 of these Regulations, may file a request to seek judicial review within 20 days following the date of service of the decision. An original and five copies of the request shall be filed with the Board itself in the headquarters office and shall include statements setting forth those factors upon which the party asserts that the case is one of special importance. Service and proof of service of the request pursuant to Section 32140 are required.

(b) Any party shall have ~~40~~ **20** days following the date of service of the request to file a response. An original and five copies of the response shall be filed with the Board itself in the headquarters office. Service and proof of service of the request pursuant to Section 32140 are required.

(c) The Board may join in a request for judicial review or may decline to join, at its discretion.

Authority cited: Sections 3509(a), 3513(h), 3541.3(g), 3563(f), 71639.1(b) and 71825(b), Government Code, and Section 99561(f), Public Utilities Code. Reference: Sections 3509, 3509.5, 3520, 3542, 3564, 71639.4 and 71825.1, Government Code, and Section 99562, Public Utilities Code.

32630. Dismissal/Refusal to Issue a Complaint.

If the Board agent concludes that the charge or the evidence is insufficient to establish a prima facie case, the Board agent shall refuse to issue a complaint, in whole or in part. The refusal shall constitute a dismissal of the charge. The refusal, including a statement of the grounds for refusal, shall be in writing and shall be served on the charging party and respondent.

Authority cited: Sections 3509(a), 3513(h), 3541.3(g), 3563(f), 71639.1(b) and 71825(b), Government Code, and Section 99561(f), Public Utilities Code. Reference: Sections 3502.5, 3509, 3513(h), 3514.5, 3515.7, 3519, 3519.5, 3523, 3541.3(i), (n), 3541.5, 3543.5, 3543.6, 3546.5, 3547, 3547.5, 3563(h), (m), 3563.2, 3571, 3571.1, 3571.3, 3584, 3587, 3595, 71632.5, 71639.1, 71814, and 71825, Government Code, and Sections 99561(h), 99561.2, 99563.7, 99563.8, 99566.3, and 99569, Public Utilities Code.

32700. Proof of Support.

(a)(1) ~~Except as required in section 32770(b)(1), 34020(c), 34050, 40400(c), 51700, 51725, 71700, or 71725 proof~~ **Proof of employee support for all petitions requiring such support representation petitions, including decertification petitions, petitions for certification, requests for recognition, severance requests or petitions, and unit modification petitions,** shall clearly demonstrate that the employee desires to be represented by the **petitioning** employee organization for the purpose of meeting and negotiating or meeting and conferring on wages, hours and other terms and conditions of employment. **Proof of support submitted with a request or petition requiring recognition of the petitioning employee organization as the exclusive representative of affected employees without an election must also clearly demonstrate that the employee understands that an election may not be conducted.**

(2) Proof of employee support for a decertification petition filed pursuant to section 32770(b)(1) shall clearly demonstrate that the employee no longer desires to be represented by the exclusive representative.

(3) Proof of employee support for a rescission petition filed pursuant to section 34020(c), 40400(c), 51700 or 71700 shall clearly demonstrate that the employee desires a vote to rescind the existing organizational security arrangement.

(4) Proof of employee support for a reinstatement petition filed pursuant to section 34050, 51725 or 71725 shall clearly demonstrate that the employee desires to reinstate the organizational security provision.

(b) The proof of support shall indicate each employee's printed name, signature, job title or classification and the date on which each individual's signature was obtained. An undated signature or a signature dated more than one calendar year prior to the filing of the petition requiring employee support shall be invalid for the purpose of calculating proof of support. Any signature meeting the requirements of this section shall be considered valid even though the signatory has executed authorizations for more than one employee organization.

(c) Any proof of support validly obtained within one year immediately prior to the date the petition or amendment requiring employee support is filed shall remain valid and may be used as proof of support to qualify for appearance on the ballot in an election, provided the employee's job classification is included in the unit in which the election is to be conducted.

(d) For purposes of determining proof of support, a joint petitioner may meet the required percentage by combining the total of the proofs of support for each of the employee organizations which make up the joint petitioner.

(e) Subject to subsections (a), (b), (c) and (d) of this section, proof of support may consist of any one of the following original documents or a combination thereof:

(1) Current dues deduction authorization forms;

(2) Membership applications;

(3) Authorization cards or petitions signed by employees. The purpose of the petition shall be clearly stated on each page thereof;

(4) A notarized membership list, provided it is accompanied by the date of each member's signature on an enrollment form, membership application, or designation card or cards, supported by a declaration under penalty of perjury that the employee organization has on file the aforementioned documents which indicate the employee's desire to be represented by the employee organization. A sample of such signed forms shall accompany the list.

~~(5) Other evidence as determined by the Board.~~

(f) Documents submitted to the board as proof of employee support shall remain confidential and not be disclosed by the board. **Neither the nature nor the size of the support shall be divulged to any party other than the petitioner, except to indicate whether the number of valid signatures submitted is adequate.**

(g) Any party which contends that proof of employee support was obtained by fraud or coercion, or that the signatures on such support documents are not genuine, shall file with the regional office evidence in the form of declarations under penalty of perjury supporting such contention within 20 days after the filing of the petition which the proof of support accompanied. The Board shall refuse to consider any evidence not timely submitted, absent a showing of good cause for late submission. ~~When prima facie evidence is submitted to the Board supporting a claim that proof of support was tainted by such misconduct, the Board shall conduct further investigations.~~ If, as a result of such an investigation, the Board determines that the showing of support is inadequate because of such misconduct, the petition shall be dismissed.

Authority cited: Sections 3513, 3513(h), 3541.3, 3541.3(g), 3563 and 3563(f), Government Code, and Section 99561(f), Public Utilities Code. Reference: Sections 3513(h), 3515.7(d), 3520.5, 3544, 3544.1, 3544.3, 3544.5, 3544.7, 3546, 3573, 3574, 3575, 3576, 3577 and 3583.5, Government Code, and Sections 99561(c), (e), (k), (l), 99564, 99564.1, 99564.2, 99564.3, 99564.4 and 99566.1, Public Utilities Code.

32705. Revocation of Proof of Support.

(a) Proof of support documents submitted to the Board may only be withdrawn by an authorized representative of the petitioning party.

(b) Notwithstanding subsection (a), above, the Board shall honor a valid revocation of authorization that revokes an authorization signature submitted with a request or petition that may require recognition of the petitioning employee organization as the exclusive representative of affected employees without an election. To be valid, the revocation must:

(1) Clearly demonstrate the employee's desire not to be represented by the petitioning employee organization for the purpose of meeting and conferring on wages, hours and other terms and conditions of employment.

(2) Be contained in an individual card or letter signed by the employee and furnished to PERB by the employee.

(3) Include the employee's name, signature, job title or classification and the date on which the employee signed the revocation.

(4) Be filed with PERB not later than the last day of the posting period applicable to the petition or request, or, with respect to a unit modification petition, within 15 workdays of the date proof of support is filed with the Board.

(c) The proof of support determination issued by the Board shall take into account all valid revocation requests but shall not disclose the identities of the employees involved.

Authority cited: Sections 3513, 3513(h), 3541.3, 3541.3(g), 3563 and 3563(f), Government Code, and Section 99561(f), Public Utilities Code. Reference: Sections 3513(h), 3515.7(d), 3520.5, 3544, 3544.1, 3544.3, 3544.5, 3544.7, 3546, 3573, 3574, 3575, 3576, 3577 and 3583.5, Government Code, and Sections 99561(c), (e), (k), (l), 99564, 99564.1, 99564.2, 99564.3, 99564.4 and 99566.1, Public Utilities Code.

32781. Petition.

Absent agreement of the parties to modify a unit, an exclusive representative, an employer, or both must file a petition for unit modification in accordance with this section. Parties who wish to obtain Board approval of a unit modification may file a petition in accordance with the provisions of this section.

(a) A recognized or certified employee organization may file with the regional office a petition for modification of its units:

- (1) To add to the unit unrepresented classifications or positions;
- (2) To divide an existing unit into two or more appropriate units;
- (3) To consolidate two or more established units into one appropriate unit.

(b) A recognized or certified employee organization, an employer, or both jointly may file with the regional office a petition for unit modification:

- (1) To delete classifications or positions which by virtue of change in circumstances are no longer appropriate to the established unit because said classification(s) or position(s) are management, supervisory, confidential, not covered by TEERA, EERA, HEERA or Ralph C. Dills Act, or otherwise prohibited by statute from inclusion in the unit;
- (2) To make technical changes to clarify or update the unit description.
- (3) To resolve a dispute as to unit placement or designation of a new classification or position.
- (4) To delete classification(s) or position(s) not subject to (1) above which are not appropriate to the unit because said classification(s) or position(s) are management, supervisory, confidential, not covered by TEERA, EERA, HEERA or Ralph C. Dills Act, or otherwise prohibited by statute from inclusion in the unit, provided that:

(A) The petition is filed jointly by the employer and the recognized or certified employee organization, or

(B) There is not in effect a lawful written agreement or memorandum of understanding, or

(C) The petition is filed during the "window period" of a lawful written agreement or memorandum of understanding as defined in these regulations in Section 33020 for EERA, Section 40130 for Ralph C. Dills Act, Section 51026 for HEERA, or Section 71026 for TEERA.

(c) All affected recognized or certified employee organizations may jointly file with the regional office a petition to transfer classifications or positions from one represented established unit to another.

(d) The petition shall be signed by an authorized agent of each petitioning party and shall include the following information:

(1) The name, address and telephone number of the exclusive representative(s) of the unit(s) affected by the petition;

(2) The name, address and telephone number of the employer and the name, address and telephone number of the agent to be contacted;

(3) A brief description and the title(s) of the established unit(s);

(4) The approximate number of employees in the established unit;

(5) The approximate number of employees covered by the petition;

(6) The effective and expiration dates of the current written agreement or memorandum of understanding, if any, covering employees in the established unit;

(7) A description of the modification(s) sought by the petition;

(8) The name and address of any other employee organization known to have an interest in representing employees covered by the petition;

(9) A statement of the reasons for the modification(s).

(e)(1) If the petition requests the addition of classifications or positions to an established unit, and the proposed addition would increase the size of the established unit by ten percent or more, the Board shall require proof of majority support of persons employed in the classifications or positions to be added.

(2) If the petition requests the addition of classifications or positions to an established unit and the classifications or positions are also included in a proposed appropriate unit in a pending request for recognition or petition for certification, the Board shall require proof of at least thirty percent support of persons employed in the classifications or positions to be added.

(3) Proof of support is defined in Section 32700 of these regulations.

(f) A copy of a petition filed solely by an exclusive representative or an employer shall be concurrently served on the other party, and on any additional interested party. Proof of service pursuant to Section 32140 is required. Proof of ~~majority~~ support, if required, shall be filed only with the regional office.

Authority cited: Sections 3513(h), 3541.3(e) and (g) and 3563(e) and (f), Government Code, and Section 99561(f), Public Utilities Code. Reference: Sections 3513(h), 3541.3(a) and (e) and 3563(a), Government Code, and Section 99561(a), (e), Public Utilities Code.

32784. Board Determination Regarding Proof of Support.

(a) If proof of ~~majority~~ support has been filed **pursuant to section 32781(e)(1) or (2)**, the employer shall, ~~within 20 days of the date the petition was filed as directed by the Board~~, file with the regional office an alphabetical list, including job titles or classifications, of all employees proposed to be added to the unit as of the last date of the payroll period immediately preceding the date the petition was filed with PERB, unless otherwise directed by the Board.

(b) The Board may allow up to 10 days to perfect the proof of support.

(c) Upon completion of the review of the proof of support, the Board shall inform the parties in writing of the determination as to sufficiency of the proof of support.

Authority cited: Sections 3513(h), 3541.3(e), (g) and 3563(e), (f), Government Code, and Section 99561(f), Public Utilities Code. Reference: Sections 3513(h), 3541.3(a), (e) and 3563(a), Government Code, and Section 99561(a), (e), Public Utilities Code.

32786. Disposition of Petitions.

(a) Upon receipt of a petition for unit modification, the Board shall investigate and, where appropriate, conduct a hearing and/or a representation election, or take such other action as deemed necessary in order to decide the questions raised by the petition and to ensure full compliance with the provisions of the law.

(b) The Board shall dismiss a petition **(1)** if it is found to be improperly or not timely filed; or, **(2)** if proof of support submitted falls short of the required ~~majority~~ **level of support**; or, **(3)** if a representation election result has been certified within the 12 months immediately preceding the date of filing of the petition which covers any employees proposed to be added to the unit; or, **(4) if, within the previous 12 months, the employer has lawfully recognized, or the Board has certified, the exclusive representative in the described unit or a subdivision thereof.**

(c) The Board may request proof of support or order an election among unrepresented employees to be added to a unit, if classifications found appropriate to be added to the unit do not include all classifications originally petitioned for.

(d) Board Order of Unit Modification.

(1) The Board shall issue an order of unit modification whenever the disposition of a petition filed under this Article results in the modification of a unit.

(2) The order shall not be considered to be a new certification for the purpose of computing time limits pursuant to Section 32754.

Authority cited: Sections 3513(h), 3541.3(e), (g) and 3563(e), (f), Government Code, and Section 99561(f), Public Utilities Code. Reference: Sections 3513(h), 3541.3(a), (e) and 3563(a), Government Code, and Section 99561(a), (e), (g), Public Utilities Code.

33480. Recognition.

If only one employee organization qualifies to appear on the ballot and the organization has demonstrated proof of majority support in the appropriate unit, the ~~employer shall grant recognition and the Board shall cancel the election,~~ **and certify the organization as the exclusive representative unless the employer has granted recognition.**

Authority cited: Section 3541.3(g), Government Code. Reference: Sections 3541.3(c), (l), 3544, 3544.1, 3544.3 and 3544.7, Government Code.

33485. Certification of Exclusive Representative.

If the Board determines (1) the employee organization requesting recognition has demonstrated proof of support of more than 50 percent of the employees in an appropriate unit, (2) no other employee organization has demonstrated proof of support of at least 30 percent of the employees, and (3) the employer has not granted recognition, the Board shall certify the petitioner as the exclusive representative.

Authority cited: Section 3541.3(g), Government Code. Reference: Sections 3541.3(c), (l), 3544, 3544.1, 3544.3 and 3544.7, Government Code.

61020. Proof of Support.

(a)(1) ~~Except as required in Section 61350(b)(1) or 61600, proof~~ **Proof** of employee support for ~~all petitions requiring such support~~ **representation petitions, including decertification petitions, petitions for certification, requests for recognition, severance requests or petitions, and unit modification petitions,** shall clearly demonstrate that the employee desires to be represented by the **petitioning** employee organization for the purpose of meeting and conferring on wages, hours and other terms and conditions of employment. **Proof of support submitted with a request or petition requiring recognition of the petitioning employee organization as the exclusive representative of affected employees without an election must also clearly demonstrate that the employee understands that an election may not be conducted.**

(2) Proof of employee support for a decertification petition filed pursuant to section 61350(b)(1) shall clearly demonstrate that the employee no longer desires to be represented by the exclusive representative.

(3) Proof of employee support for a rescission petition filed pursuant to section 61600 shall clearly demonstrate that the employee desires a vote to rescind the existing organizational security arrangement.

(b) The proof of support shall indicate each employee's printed name, signature, job title or classification and the date on which each individual's signature was obtained. An undated signature or a signature dated more than one calendar year prior to the filing of the petition requiring employee support shall be invalid for the purpose of calculating proof of support. Any signature meeting the requirements of this section shall be considered valid even though the signatory has executed authorizations for more than one employee organization.

(c) Any proof of support validly obtained within one year immediately prior to the date the petition or amendment requiring employee support is filed shall remain valid and may be used as proof of support to qualify for appearance on the ballot in an election, provided the employee's job classification is included in the unit in which the election is to be conducted.

(d) Subject to subsections (a), (b) and (c) of this section, proof of support may consist of any one of the following original documents or a combination thereof:

(1) Current dues deduction authorization forms;

(2) Membership applications;

(3) Authorization cards or petitions signed by employees. The purpose of the petition shall be clearly stated on each page thereof;

(4) A notarized membership list, provided it is accompanied by the date of each member's signature on an enrollment form, membership application, or designation card or cards, supported by a declaration under penalty of perjury that the employee organization has on file

the aforementioned documents which indicate the employee's desire to be represented by the employee organization. A sample of such signed forms shall accompany the list.

~~(5) Other evidence as determined by the Board.~~

(e) Documents submitted to the board as proof of employee support shall remain confidential and not be disclosed by the Board. **Neither the nature nor the size of the support shall be divulged to any party other than the petitioner, except to indicate whether the number of valid signatures submitted is adequate.**

(f) Any party which contends that proof of employee support was obtained by fraud or coercion, or that the signatures on such support documents are not genuine, shall file with the regional office evidence in the form of declarations under penalty of perjury supporting such contention within 20 days after the filing of the petition which the proof of support accompanied. The Board shall refuse to consider any evidence not timely submitted, absent a showing of good cause for late submission. ~~When prima facie evidence is submitted to the Board supporting a claim that proof of support was tainted by such misconduct, the Board shall conduct further investigations.~~ If, as a result of ~~such an~~ investigation, the Board determines that the proof of support is inadequate because of such misconduct, the petition shall be dismissed.

Authority cited: Sections 3509(a) and 3541.3(g), Government Code. Reference: Sections 3502.5, 3507, 3507.1, 3509 and 3541.3, Government Code.

61025. Revocation of Proof of Support.

(a) Proof of support documents submitted to the Board may only be withdrawn by an authorized representative of the petitioning party.

(b) Notwithstanding subsection (a), above, the Board shall honor a valid revocation of authorization that revokes an authorization signature submitted with a request or petition that may require recognition of the petitioning employee organization as the exclusive representative of affected employees without an election. To be valid, the revocation must:

(1) Clearly demonstrate the employee's desire not to be represented by the petitioning employee organization for the purpose of meeting and conferring on wages, hours and other terms and conditions of employment.

(2) Be contained in an individual card or letter signed by the employee and furnished to PERB by the employee.

(3) Include the employee's name, signature, job title or classification and the date on which the employee signed the revocation.

(4) Be filed with PERB not later than the last day of the posting period applicable to the petition or request, or, with respect to a unit modification petition, within 15 workdays of the date proof of support is filed with the Board.

(c) The proof of support determination issued by the Board shall take into account all valid revocation requests but shall not disclose the identities of the employees involved.

Authority cited: Sections 3509(a) and 3541.3(g), Government Code. Reference: Sections 3502.5, 3507, 3507.1, 3509 and 3541.3, Government Code.

61450. Petition.

Absent agreement of the parties to modify a unit, an exclusive representative, an employer, or both must file a petition for unit modification in accordance with this section. Parties who wish to obtain Board certification of a unit modification may file a petition in accordance with the provisions of this section.

(a) An exclusive representative may file with the regional office a petition for modification of its unit(s):

- (1) To add to the unit unrepresented classifications or positions;
- (2) To divide the existing unit into two or more appropriate units;
- (3) To consolidate two or more of its established units into one appropriate unit.

(b) An exclusive representative, an employer, or both jointly may file with the regional office a petition for unit modification:

- (1) To delete classifications or positions which by virtue of change in circumstances are no longer appropriate to the established unit because said classification(s) or position(s) are not covered by MMBA or otherwise prohibited by statute or local rule from inclusion in the unit;
- (2) To make technical changes to clarify or update the unit description;
- (3) To resolve a dispute as to unit placement or designation of a new classification or position;
- (4) To delete classifications or positions not subject to (1) above which are no longer appropriate to the established unit because said classification(s) or position(s) are not covered by MMBA or otherwise prohibited by statute or local rule from inclusion in the unit, provided that:

(A) The petition is filed jointly by the employer and the exclusive representative, or

(B) There is not in effect a lawful written agreement or memorandum of understanding, or

(C) The petition is filed during the "window period" of a lawful memorandum of understanding as defined in these regulations in Section 61010.

(c) All affected exclusive representatives may jointly file with the regional office a petition to transfer classifications or positions from one represented established unit to another.

(d) The petition shall be signed by an authorized agent of each petitioning party and include the following information:

(1) The name, address and telephone number of the exclusive representative(s) of the unit(s) affected by the petition;

(2) The name, address and telephone number of the employer and the name, address and telephone number of the agent to be contacted;

(3) A brief description and the title(s) of the established unit(s);

(4) The approximate number of employees in the established unit;

(5) The approximate number of employees covered by the petition;

(6) The effective and expiration dates of the current memorandum of understanding, if any, covering employees in the established unit;

(7) A description of the modification(s) sought by the petition;

(8) The name and address of any other employee organization known to have an interest in representing employees covered by the petition;

(9) A statement of the reasons for the modification(s).

(e)(1) If the petition requests the addition of classifications or positions to an established unit, and the proposed addition would increase the size of the established unit by ten percent or more, the Board shall require proof of majority support of persons employed in the classifications or positions to be added.

(2) If the petition requests the addition of classifications or positions to an established unit and the classifications or positions are also included in a proposed appropriate unit in a pending request for recognition or petition for certification, the Board shall require proof of at least thirty percent support of persons employed in the classifications or positions to be added.

(3) Proof of support is defined in Section 61020 of these regulations.

(f) A copy of a petition filed solely by an exclusive representative or an employer shall be concurrently served on the other party, and on any additional interested party. Proof of service pursuant to Section 32140 is required. Proof of ~~majority~~ support, if required, shall be filed only with the regional office.

Authority cited: Sections 3509(a) and 3541.3(e) and (g), Government Code. Reference: Sections 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3(a) and (e), Government Code.

61470. Board Determination Regarding Proof of Support.

(a) If proof of ~~majority~~ support has been filed **pursuant to section 61450(e)(1) or (2)**, the employer shall, ~~within 20 days of the date the petition was filed as directed by the Board~~, file with the regional office an alphabetical list, including job titles or classifications, of all employees proposed to be added to the unit as of the last date of the payroll period immediately preceding the date the petition was filed with PERB, unless otherwise directed by the Board.

(b) The Board may allow up to 10 days to perfect the proof of support.

(c) Upon completion of the review of the proof of support, the Board shall inform the parties in writing of the determination as to sufficiency of the proof of support.

Authority cited: Sections 3509(a) and 3541.3(e) and (g), Government Code. Reference: Sections 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3(a) and (e), Government Code.

61480. Disposition of Petitions.

(a) Upon receipt of a petition for unit modification, the Board shall investigate and, where appropriate, conduct a hearing and/or a representation election, or take such other action as deemed necessary in order to decide the questions raised by the petition and to ensure full compliance with the provisions of the law.

(b) The Board shall dismiss a petition if **(1)** it is found to be improperly or not timely filed; or, **(2)** if proof of support submitted falls short of the required ~~majority~~ **level of support**; or, **(3)** if a representation election result has been certified within the 12 months immediately preceding the date of filing of the petition which covers any employees proposed to be added to the unit; or, **(4)** whenever the employer has, within the previous 12 months, lawfully recognized the exclusive representative in the described unit or a subdivision thereof.

(c) Board Order of Unit Modification.

(1) The Board shall issue an order of unit modification whenever the disposition of a petition filed under this Article results in the modification of a unit.

(2) The order shall not be considered to be a new certification for the purpose of computing time limits pursuant to Section 61200.

Authority cited: Sections 3509(a) and 3541.3(e) and (g), Government Code. Reference: Sections 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3(a) and (e), Government Code.

81020. Proof of Support.

(a)(1) ~~Except as required in Section 81350(b)(1) or 81600, proof~~ **Proof** of employee support for ~~all petitions requiring such support~~ **representation petitions, including decertification petitions, petitions for certification, requests for recognition, severance requests or petitions, and unit modification petitions,** shall clearly demonstrate that the employee desires to be represented by the **petitioning** employee organization for the purpose of meeting and conferring on wages, hours and other terms and conditions of employment. **Proof of support submitted with a request or petition requiring recognition of the petitioning employee organization as the exclusive representative of affected employees without an election must also clearly demonstrate that the employee understands that an election may not be conducted.**

(2) Proof of employee support for a decertification petition filed pursuant to section 81350(b)(1) shall clearly demonstrate that the employee no longer desires to be represented by the exclusive representative.

(3) Proof of employee support for a rescission petition filed pursuant to section 81600 shall clearly demonstrate that the employee desires a vote to rescind the existing organizational security arrangement.

(b) The proof of support shall indicate each employee's printed name, signature, job title or classification and the date on which each individual's signature was obtained. An undated signature or a signature dated more than one calendar year prior to the filing of the petition requiring employee support shall be invalid for the purpose of calculating proof of support. Any signature meeting the requirements of this section shall be considered valid even though the signatory has executed authorizations for more than one employee organization.

(c) Any proof of support validly obtained within one year immediately prior to the date the petition or amendment requiring employee support is filed shall remain valid and may be used as proof of support to qualify for appearance on the ballot in an election, provided the employee's job classification is included in the unit in which the election is to be conducted.

(d) Subject to subsections (a), (b) and (c) of this section, proof of support may consist of any one of the following original documents or a combination thereof:

(1) Current dues deduction authorization forms;

(2) Membership applications;

(3) Authorization cards or petitions signed by employees. The purpose of the petition shall be clearly stated on each page thereof;

(4) A notarized membership list, provided it is accompanied by the date of each member's signature on an enrollment form, membership application, or designation card or cards, supported by a declaration under penalty of perjury that the employee organization has on file

the aforementioned documents which indicate the employee's desire to be represented by the employee organization. A sample of such signed forms shall accompany the list.

~~(5) Other evidence as determined by the Board.~~

(e) Documents submitted to the board as proof of employee support shall remain confidential and not be disclosed by the Board. **Neither the nature nor the size of the support shall be divulged to any party other than the petitioner, except to indicate whether the number of valid signatures submitted is adequate.**

(f) Any party which contends that proof of employee support was obtained by fraud or coercion, or that the signatures on such support documents are not genuine, shall file with the regional office evidence in the form of declarations under penalty of perjury supporting such contention within 20 days after the filing of the petition which the proof of support accompanied. The Board shall refuse to consider any evidence not timely submitted, absent a showing of good cause for late submission. ~~When prima facie evidence is submitted to the Board supporting a claim that proof of support was tainted by such misconduct, the Board shall conduct further investigations.~~ If, as a result of ~~such an~~ investigation, the Board determines that the proof of support is inadequate because of such misconduct, the petition shall be dismissed.

Authority cited: Sections 3541.3(g) and 71639.1(b), Government Code. Reference: Sections 3541.3, 71632.5, 71636, 71636.3, 71637, 71637.1 and 71639.1, Government Code.

81025. Revocation of Proof of Support.

(a) Proof of support documents submitted to the Board may only be withdrawn by an authorized representative of the petitioning party.

(b) Notwithstanding subsection (a), above, the Board shall honor a valid revocation of authorization that revokes an authorization signature submitted with a request or petition that may require recognition of the petitioning employee organization as the exclusive representative of affected employees without an election. To be valid, the revocation must:

(1) Clearly demonstrate the employee's desire not to be represented by the petitioning employee organization for the purpose of meeting and conferring on wages, hours and other terms and conditions of employment.

(2) Be contained in an individual card or letter signed by the employee and furnished to PERB by the employee.

(3) Include the employee's name, signature, job title or classification and the date on which the employee signed the revocation.

(4) Be filed with PERB not later than the last day of the posting period applicable to the petition or request, or, with respect to a unit modification petition, within 15 workdays of the date proof of support is filed with the Board.

(c) The proof of support determination issued by the Board shall take into account all valid revocation requests but shall not disclose the identities of the employees involved.

Authority cited: Sections 3541.3(g) and 71639.1(b), Government Code. Reference: Sections 3541.3, 71632.5, 71636, 71636.3, 71637, 71637.1 and 71639.1, Government Code.

81450. Petition.

Absent agreement of the parties to modify a unit, an exclusive representative, an employer, or both must file a petition for unit modification in accordance with this section. Parties who wish to obtain Board certification of a unit modification may file a petition in accordance with the provisions of this section.

(a) An exclusive representative may file with the regional office a petition for modification of its unit(s):

- (1) To add to the unit unrepresented classifications or positions;
- (2) To divide the existing unit into two or more appropriate units;
- (3) To consolidate two or more of its established units into one appropriate unit.

(b) An exclusive representative, an employer, or both jointly may file with the regional office a petition for unit modification:

- (1) To delete classifications or positions which by virtue of change in circumstances are no longer appropriate to the established unit because said classification(s) or position(s) are not covered by the Trial Court Act or otherwise prohibited by statute or local rule from inclusion in the unit;
- (2) To make technical changes to clarify or update the unit description;
- (3) To resolve a dispute as to unit placement or designation of a new classification or position;
- (4) To delete classifications or positions not subject to (1) above which are no longer appropriate to the established unit because said classification(s) or position(s) are not covered by the Trial Court Act or otherwise prohibited by statute or local rule from inclusion in the unit, provided that:
 - (A) The petition is filed jointly by the employer and the exclusive representative, or
 - (B) There is not in effect a lawful written agreement or memorandum of understanding, or
 - (C) The petition is filed during the "window period" of a lawful memorandum of understanding as defined in these regulations in Section 81010.

(c) All affected exclusive representatives may jointly file with the regional office a petition to transfer classifications or positions from one represented established unit to another.

(d) The petition shall be signed by an authorized agent of each petitioning party and include the following information:

(1) The name, address and telephone number of the exclusive representative(s) of the unit(s) affected by the petition;

(2) The name, address and telephone number of the employer and the name, address and telephone number of the agent to be contacted;

(3) A brief description and the title(s) of the established unit(s);

(4) The approximate number of employees in the established unit;

(5) The approximate number of employees covered by the petition;

(6) The effective and expiration dates of the current memorandum of understanding, if any, covering employees in the established unit;

(7) A description of the modification(s) sought by the petition;

(8) The name and address of any other employee organization known to have an interest in representing employees covered by the petition;

(9) A statement of the reasons for the modification(s).

(e)(1) If the petition requests the addition of classifications or positions to an established unit, and the proposed addition would increase the size of the established unit by ten percent or more, the Board shall require proof of majority support of persons employed in the classifications or positions to be added.

(2) If the petition requests the addition of classifications or positions to an established unit and the classifications or positions are also included in a proposed appropriate unit in a pending request for recognition or petition for certification, the Board shall require proof of at least thirty percent support of persons employed in the classifications or positions to be added.

(3) Proof of support is defined in Section 81020 of these regulations.

(f) A copy of a petition filed solely by an exclusive representative or an employer shall be concurrently served on the other party, and on any additional interested party. Proof of service pursuant to Section 32140 is required. Proof of ~~majority~~ support, if required, shall be filed only with the regional office.

Authority cited: Sections 3541.3(g) and 71639.1(b), Government Code. Reference: Sections 3541.3, 71636, 71636.3, 71637, 71637.1 and 71639.1, Government Code.

81470. Board Determination Regarding Proof of Support.

(a) If proof of ~~majority~~ support has been filed **pursuant to section 81450(e)(1) or (2)**, the employer shall, ~~within 20 days of the date the petition was filed as directed by the Board~~, file with the regional office an alphabetical list, including job titles or classifications, of all employees proposed to be added to the unit as of the last date of the payroll period immediately preceding the date the petition was filed with PERB, unless otherwise directed by the Board.

(b) The Board may allow up to 10 days to perfect the proof of support.

(c) Upon completion of the review of the proof of support, the Board shall inform the parties in writing of the determination as to sufficiency of the proof of support.

Authority cited: Sections 3541.3(g) and 71639.1(b), Government Code. Reference: Sections 3541.3, 71636, 71636.3, 71637, 71637.1 and 71639.1, Government Code.

81480. Disposition of Petitions.

(a) Upon receipt of a petition for unit modification, the Board shall investigate and, where appropriate, conduct a hearing and/or a representation election, or take such other action as deemed necessary in order to decide the questions raised by the petition and to ensure full compliance with the provisions of the law.

(b) The Board shall dismiss a petition if **(1)** it is found to be improperly or not timely filed; or, **(2)** if proof of support submitted falls short of the required ~~majority~~ **level of support**; or, **(3)** if a representation election result has been certified within the 12 months immediately preceding the date of filing of the petition which covers any employees proposed to be added to the unit; or, **(4)** whenever the employer has, within the previous 12 months, lawfully recognized the exclusive representative in the described unit or a subdivision thereof.

(c) Board Order of Unit Modification.

(1) The Board shall issue an order of unit modification whenever the disposition of a petition filed under this Article results in the modification of a unit.

(2) The order shall not be considered to be a new certification for the purpose of computing time limits pursuant to Section 81200.

Authority cited: Sections 3541.3(g) and 71639.1(b), Government Code. Reference: Sections 3541.3, 71636, 71636.3, 71637, 71637.1 and 71639.1, Government Code.

91020. Proof of Support.

(a)(1) ~~Except as required in Section 91350(b)(1) or 91600, proof~~ **Proof** of employee support for ~~all petitions requiring such support~~ **representation petitions, including decertification petitions, petitions for certification, requests for recognition, severance requests or petitions, and unit modification petitions,** shall clearly demonstrate that the employee desires to be represented by the **petitioning** employee organization for the purpose of meeting and conferring on wages, hours and other terms and conditions of employment. **Proof of support submitted with a request or petition requiring recognition of the petitioning employee organization as the exclusive representative of affected employees without an election must also clearly demonstrate that the employee understands that an election may not be conducted.**

(2) Proof of employee support for a decertification petition filed pursuant to section 91350(b)(1) shall clearly demonstrate that the employee no longer desires to be represented by the exclusive representative.

(3) Proof of employee support for a rescission petition filed pursuant to section 91600 shall clearly demonstrate that the employee desires a vote to rescind the existing organizational security arrangement.

(b) The proof of support shall indicate each employee's printed name, signature, job title or classification and the date on which each individual's signature was obtained. An undated signature or a signature dated more than one calendar year prior to the filing of the petition requiring employee support shall be invalid for the purpose of calculating proof of support. Any signature meeting the requirements of this section shall be considered valid even though the signatory has executed authorizations for more than one employee organization.

(c) Any proof of support validly obtained within one year immediately prior to the date the petition or amendment requiring employee support is filed shall remain valid and may be used as proof of support to qualify for appearance on the ballot in an election, provided the employee's job classification is included in the unit in which the election is to be conducted.

(d) Subject to subsections (a), (b) and (c) of this section, proof of support may consist of any one of the following original documents or a combination thereof:

(1) Current dues deduction authorization forms;

(2) Membership applications;

(3) Authorization cards or petitions signed by employees. The purpose of the petition shall be clearly stated on each page thereof;

(4) A notarized membership list, provided it is accompanied by the date of each member's signature on an enrollment form, membership application, or designation card or cards, supported by a declaration under penalty of perjury that the employee organization has on file

the aforementioned documents which indicate the employee's desire to be represented by the employee organization. A sample of such signed forms shall accompany the list.

~~(5) Other evidence as determined by the Board.~~

(e) Documents submitted to the board as proof of employee support shall remain confidential and not be disclosed by the Board. **Neither the nature nor the size of the support shall be divulged to any party other than the petitioner, except to indicate whether the number of valid signatures submitted is adequate.**

(f) Any party which contends that proof of employee support was obtained by fraud or coercion, or that the signatures on such support documents are not genuine, shall file with the regional office evidence in the form of declarations under penalty of perjury supporting such contention within 20 days after the filing of the petition which the proof of support accompanied. The Board shall refuse to consider any evidence not timely submitted, absent a showing of good cause for late submission. ~~When prima facie evidence is submitted to the Board supporting a claim that proof of support was tainted by such misconduct, the Board shall conduct further investigations.~~ If, as a result of ~~such an~~ investigation, the Board determines that the proof of support is inadequate because of such misconduct, the petition shall be dismissed.

Authority cited: Sections 3541.3(g) and 71825(b), Government Code. Reference: Sections 3541.3, 71814, 71823 and 71825, Government Code.

91025. Revocation of Proof of Support.

(a) Proof of support documents submitted to the Board may only be withdrawn by an authorized representative of the petitioning party.

(b) Notwithstanding subsection (a), above, the Board shall honor a valid revocation of authorization that revokes an authorization signature submitted with a request or petition that may require recognition of the petitioning employee organization as the exclusive representative of affected employees without an election. To be valid, the revocation must:

(1) Clearly demonstrate the employee's desire not to be represented by the petitioning employee organization for the purpose of meeting and conferring on wages, hours and other terms and conditions of employment.

(2) Be contained in an individual card or letter signed by the employee and furnished to PERB by the employee.

(3) Include the employee's name, signature, job title or classification and the date on which the employee signed the revocation.

(4) Be filed with PERB not later than the last day of the posting period applicable to the petition or request, or, with respect to a unit modification petition, within 15 workdays of the date proof of support is filed with the Board.

(c) The proof of support determination issued by the Board shall take into account all valid revocation requests but shall not disclose the identities of the employees involved.

Authority cited: Sections 3541.3(g) and 71825(b), Government Code. Reference: Sections 3541.3, 71814, 71823 and 71825, Government Code.

91450. Petition.

Absent agreement of the parties to modify a unit, an exclusive representative, an employer, or both must file a petition for unit modification in accordance with this section. Parties who wish to obtain Board certification of a unit modification may file a petition in accordance with the provisions of this section.

(a) An exclusive representative may file with the regional office a petition for modification of its unit(s):

- (1) To add to the unit unrepresented classifications or positions;
- (2) To divide the existing unit into two or more appropriate units;
- (3) To consolidate two or more of its established units into one appropriate unit.

(b) An exclusive representative, an employer, or both jointly may file with the regional office a petition for unit modification:

- (1) To delete classifications or positions which by virtue of change in circumstances are no longer appropriate to the established unit because said classification(s) or position(s) are not covered by the Court Interpreter Act or otherwise prohibited by statute or local rule from inclusion in the unit;
- (2) To make technical changes to clarify or update the unit description;
- (3) To resolve a dispute as to unit placement or designation of a new classification or position;
- (4) To delete classifications or positions not subject to (1) above which are no longer appropriate to the established unit because said classification(s) or position(s) are not covered by the Court Interpreter Act or otherwise prohibited by statute or local rule from inclusion in the unit, provided that:

(A) The petition is filed jointly by the employer and the exclusive representative, or

(B) There is not in effect a lawful written agreement or memorandum of understanding, or

(C) The petition is filed during the "window period" of a lawful memorandum of understanding as defined in these regulations in Section 91010.

(c) All affected exclusive representatives may jointly file with the regional office a petition to transfer classifications or positions from one represented established unit to another.

(d) The petition shall be signed by an authorized agent of each petitioning party and include the following information:

(1) The name, address and telephone number of the exclusive representative(s) of the unit(s) affected by the petition;

(2) The name, address and telephone number of the employer and the name, address and telephone number of the agent to be contacted;

(3) A brief description and the title(s) of the established unit(s);

(4) The approximate number of employees in the established unit;

(5) The approximate number of employees covered by the petition;

(6) The effective and expiration dates of the current memorandum of understanding, if any, covering employees in the established unit;

(7) A description of the modification(s) sought by the petition;

(8) The name and address of any other employee organization known to have an interest in representing employees covered by the petition;

(9) A statement of the reasons for the modification(s).

(e)(1) If the petition requests the addition of classifications or positions to an established unit, and the proposed addition would increase the size of the established unit by ten percent or more, the Board shall require proof of majority support of persons employed in the classifications or positions to be added.

(2) If the petition requests the addition of classifications or positions to an established unit and the classifications or positions are also included in a proposed appropriate unit in a pending request for recognition or petition for certification, the Board shall require proof of at least thirty percent support of persons employed in the classifications or positions to be added.

(3) Proof of support is defined in Section 91020 of these regulations.

(f) A copy of a petition filed solely by an exclusive representative or an employer shall be concurrently served on the other party, and on any additional interested party. Proof of service pursuant to Section 32140 is required. Proof of ~~majority~~ support, if required, shall be filed only with the regional office.

Authority cited: Sections 3541.3(g) and 71825(b), Government Code. Reference: Sections 3541.3, 71823 and 71825, Government Code.

91470. Board Determination Regarding Proof of Support.

(a) If proof of ~~majority~~ support has been filed **pursuant to section 91450(e)(1) or (2)**, the employer shall, ~~within 20 days of the date the petition was filed as directed by the Board~~, file with the regional office an alphabetical list, including job titles or classifications, of all employees proposed to be added to the unit as of the last date of the payroll period immediately preceding the date the petition was filed with PERB, unless otherwise directed by the Board.

(b) The Board may allow up to 10 days to perfect the proof of support.

(c) Upon completion of the review of the proof of support, the Board shall inform the parties in writing of the determination as to sufficiency of the proof of support.

Authority cited: Sections 3541.3(g) and 71825(b), Government Code. Reference: Sections 3541.3, 71823 and 71825, Government Code.

91480. Disposition of Petitions.

(a) Upon receipt of a petition for unit modification, the Board shall investigate and, where appropriate, conduct a hearing and/or a representation election, or take such other action as deemed necessary in order to decide the questions raised by the petition and to ensure full compliance with the provisions of the law.

(b) The Board shall dismiss a petition if **(1)** it is found to be improperly or not timely filed; or, **(2)** if proof of support submitted falls short of the required ~~majority~~ **level of support**; or, **(3)** if a representation election result has been certified within the 12 months immediately preceding the date of filing of the petition which covers any employees proposed to be added to the unit; or, **(4)** whenever the employer has, within the previous 12 months, lawfully recognized the exclusive representative in the described unit or a subdivision thereof.

(c) Board Order of Unit Modification.

(1) The Board shall issue an order of unit modification whenever the disposition of a petition filed under this Article results in the modification of a unit.

(2) The order shall not be considered to be a new certification for the purpose of computing time limits pursuant to Section 91200.

Authority cited: Sections 3541.3(g) and 71825(b), Government Code. Reference: Sections 3541.3, 71823 and 71825, Government Code.